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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/653,486	08/31/2000	James J. Crow	804137-US-NP	4808

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EXAMINER	
DALENCOURT, YVES	
ART UNIT	PAPER NUMBER
2457	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	09/653,486	CROW, JAMES J.	
	Examiner	Art Unit	
	YVES DALENCOURT	2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 June 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *48-85* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *48-85* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

DETAILED ACTION

This office action is responsive to Request for Continued Examination (RCE) filed on 06/17/2010.

Response to Amendment

The Examiner has acknowledged the cancellation of claims 1 – 47 and the submission of new claims 48 – 85.

Claim Objections

Claims 48, 53, 62, and 72 are objected to because of the following informalities: It is suggested to delete " adapted to " in the claims because it has been held that the recitation that an element is **" adapted"** to perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical

Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 48, 51 – 72, and 75 - 85 are rejected under 35 U.S.C. 102(e) as being anticipated by Wang et al (US 6,636,505; hereinafter Wang).

Regarding claim 48, Wang discloses an automated method of a service provider establishing broadband service with a subscriber (fig. 2), comprising the steps of:

receiving an order for broadband service from said subscriber (col. 7, lines 33 – 41), including establishing a control dialog between an automation server and a subscriber computer (col. 6, lines 4 – 12; col. 16, line 64 through col. 17, line 33; Wang discloses establishing a dialog with an automation server (fig. 6;see CPE Service Selection Application; column 6, lines 25 - 50; col. 7, lines 7 - 32; Wang discloses that the adoption of ILMI for the service provisioning may enable an automated and "user friendly" service that will provide the advantages of CPE hand free configuration, integrated service management for the operator, enhanced end-to-end service provisioning, and reduced operator service overheads); said establishing including providing an automation agent to said subscriber, said automation agent being adapted to configure said subscriber computer to initiate a control dialog with said automation server (col. 6, lines 3 – 50 and col. 7, lines 7 – 32; *Wang discloses that An HTML window application may be presented at ATU-R and prompted for "UPLOAD SERVICE PROVISIONING". Once "OK" is pressed, ATU-R invokes TCP/IP or UDP/IP stack to*

communicate with ATU-C based on a client and server relationship. TCP/IP or UDP/IP packets communicated between ATU-R and ATU-C are using AAL5 which in turn using default VPI and VCI over DMT subchannels. Either TCP or UDP is applicable for the communication). *Once the service provisioning data is download to ATU-R, a message will indicate user that the service is ready and user data sessions may begin. All the DMT subchannels will then be used for user data transmission*), wherein said order includes a service option (col. 7, lines 33 – 58; col. 9, line 15 through col. 10, line 7);

configuring said automation agent to execute a configuration workflow, including transmitting said workflow to said automation agent via said control dialog, said workflow being based on said service option and including conditions for said subscriber computer to successfully operate over said broadband service, said automation agent being further adapted to perform said workflow and to determine broadband service availability information (col. 6, line 46 through col. 7, line 32);

configuring physical assets of a broadband network by employing said automation server to receive said service availability information from said automation agent, and to configure said physical assets based on said order and said service availability information; and configuring said subscriber computer by providing to said automation agent, via said control dialog, subscriber and broadband modem configuration information, wherein said automation agent is further adapted to provision said subscriber computer and said broadband modem according to said configuration information (col. 6, lines 46 – 65; col. 8, line 36 through col. 9, line 55).

Regarding claim 51, Wang discloses the method as recited in Claim 48, wherein said service provider provides said automation agent via an internet download to said subscriber (col. 6, lines 25 - 37; Wang discloses that an HTML window application may be presented at the remote terminal unit (ATU'R) and prompted for upload service provisioning. Once the service provisioning data is downloaded to ATU-R, a message will indicate user that the service is ready and user data sessions may begin).

Regarding claim 52, Wang discloses the method as recited in Claim 48, wherein said service provider provides said automation agent to a computer manufacturer for preloading on said subscriber computer (col. 5, lines 38 - 48).

Regarding claim 53, Wang discloses the method as recited in Claim 48, wherein said automation agent is adapted to configure said subscriber computer for a baseline network access method to conduct said control dialog (col. 5, line 38 through col. 6, line 65).

Regarding claim 54, Wang discloses the method as recited in Claim 48, wherein receiving said order includes said service provider advertising, via said automation agent, said broadband service to said subscriber (col. 5, line 38 through col. 6, line 65).

Regarding claim 55, Wang discloses the method as recited in Claim 48, wherein said control dialog includes said automation server receiving a status from said automation agent resulting from executing said workflow, and said automation server updates a subscriber profile database with said status (col. 8, line 3 through col. 9, line 55).

Regarding claim 56, Wang discloses the method of claim 48, wherein said broadband network is a DSL network (col. 6, line 4 - 12).

Regarding claim 57, Wang discloses the method of claim 56, wherein said workflow includes using a narrowband modem to contact a DSL line qualification server to test a physical line outside the scope of said broadband network, and wherein said service availability information includes DSL subscriber loop characteristics associated with said physical line (col. 21, line 20 through col. 22, line 19; Wang further discloses that provisioning a users ADSL service requires that the network 60 and the CEP 110 be provisioned in concert).

Regarding claim 58, Wang discloses the method of claim 48, wherein said broadband network is a cable network (col. 6, lines 4 - 45).

Regarding claim 59, Wang discloses the method of claim 58, wherein said workflow includes detecting a carrier signal from said cable network and attempting to communicate with said automation server via said cable network, and said service availability information includes a signal strength of said carrier signal or an error code resulting from said attempt (see col. 21, line 21 through col. 22, line 19; Wang discloses that a message is sent by the ADSL modem in the CPE 110 to client PC after a service attempt. If call attempt is failed, the call status will return an error code, see table 2, with both VPINCI and connection ID be Os).

Regarding claim 60, Wang discloses the method of claim 48, wherein said broadband network is an ISDN network (the network includes a fiber optic network; col. 6, lines 4 - 12).

Regarding claim 61, Wang discloses the method of claim 48, wherein said broadband network is a wireless network (col. 6, lines 4 - 6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 49 - 50 and 73 - 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al (US 6,636,505; hereinafter Wang) in view Lechleider et al (US 6,091,713; hereinafter Leichleider).

Regarding claim 49, Wang discloses all the limitations in claim 48, but fails to specifically disclose the step of upgrading said broadband network to add a geographic region that includes said subscriber, thereby newly enabling said subscriber for broadband network access.

However, Lechleider discloses the steps of upgrading said broadband network to add a geographic region that includes said subscriber, thereby newly enabling said subscriber for broadband network access.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Wang by upgrading said broadband network to add a geographic region that includes said subscriber, thereby newly

enabling said subscriber for broadband network access as evidenced by Lechleider for the purpose of determining the viability of deploying ADSL in entire areas by creating lists of subscribers whose subscriber loop can support ADSL, thereby allowing for efficient and ubiquitous deployment of broadband services over the existing subscriber loop plant.

Regarding claim 50, Wang discloses the method as recited in Claim 49, wherein establishing said control dialog further includes said automation server accessing a broadband deployment database updated after said upgrading (col. 9, line 36 through col. 10, line 7).

Claims 62 – 85 incorporate substantively all the limitations of claims 48 – 61. The reasons for rejecting claims 48 – 61 apply to claims 62 – 85. Therefore, claims 62 – 85 are rejecting for the same reasons.

In the alternative,

Claims 48, 51 – 72, and 75 - 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al (US 6,636,505; hereinafter Wang) in view of Cantos et al (US 6,529,784; hereinafter Cantos).

Regarding claim 48, Wang discloses an automated method of a service provider establishing broadband service with a subscriber (fig. 2), comprising the steps of:

receiving an order for broadband service from said subscriber (col. 7, lines 33 – 41), including establishing a control dialog between an automation server and a

subscriber computer (col. 6, lines 4 – 12; col. 16, line 64 through col. 17, line 33; Wang discloses establishing a dialog with an automation server (fig. 6;see CPE Service Selection Application; column 6, lines 25 - 50; col. 7, lines 7 - 32; Wang discloses that the adoption of ILMI for the service provisioning may enable an automated and "user friendly" service that will provide the advantages of CPE hand free configuration, integrated service management for the operator, enhanced end-to-end service provisioning, and reduced operator service overheads); said establishing including providing an **HTLM window application with a service provisioning to be uploaded** to said subscriber, said **HTLM window application** being adapted to configure said subscriber computer to initiate a control dialog with said automation server (col. 6, lines 3 – 50 and col. 7, lines 7 – 32; *Wang discloses that An HTML window application may be presented at ATU-R and prompted for "UPLOAD SERVICE PROVISIONING". Once "OK" is pressed, ATU-R invokes TCP/IP or UDP/IP stack to communicate with ATU-C based on a client and server relationship. TCP/IP or UDP/IP packets communicated between ATU-R and ATU-C are using AAL5 which in turn using default VPI and VCI over DMT subchannels. Either TCP or UDP is applicable for the communication)*. *Once the service provisioning data is download to ATU-R, a message will indicate user that the service is ready and user data sessions may begin. All the DMT subchannels will then be used for user data transmission*), wherein said order includes a service option (col. 7, lines 33 – 58; col. 9, line 15 through col. 10, line 7);

configuring said HTLM window application to execute a configuration workflow, including transmitting said workflow to said HTLM window application via said control

dialog, said workflow being based on said service option and including conditions for said subscriber computer to successfully operate over said broadband service, said HTLM window application being further adapted to perform said workflow and to determine broadband service availability information (col. 6, line 46 through col. 7, line 32);

configuring physical assets of a broadband network by employing said automation server to receive said service availability information from said HTLM window application, and to configure said physical assets based on said order and said service availability information; and configuring said subscriber computer by providing to said HTLM window application, via said control dialog, subscriber and broadband modem configuration information, wherein said HTLM window application is further adapted to provision said subscriber computer and said broadband modem according to said configuration information (col. 6, lines 46 – 65; col. 8, line 36 through col. 9, line 55).

Wang discloses substantially all the limitations, but fails to specifically disclose the step of providing an automation agent to said subscriber to interact with an automation server in order to configure a computer's subscriber to receive services from a service provider.

However, Cantos shows the idea of using an automated agent interacting with an automated server in order to configure a subscriber's computer/machine (col. 2, lines 25 – 36; col. 3, line 1 through col. 4, line 45; Cantos discloses directing gents for collecting configuration, diagnostic, frequency of use or other information from the target computer

system and transmitting the collected information to a central control server. The control server receives the information and accesses relevant information from a database of software information. The control server then formats and transmits this information to the agent. The agent may act on the information directly or may display the information to a user through a management tool GUI).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Wang by proving the idea of using an automated agent interacting with an automated server in order to configure a subscriber's computer/machine as evidenced by Cantos for the purpose of allowing configuration of subscriber's assets quick and effective without user's intervention, thereby eliminating human errors and saving time.

Regarding claim 51, Wang discloses the method as recited in Claim 48, wherein said service provider provides said automation agent via an internet download to said subscriber (col. 6, lines 25 - 37; Wang discloses that an HTML window application may be presented at the remote terminal unit (ATU'R) and prompted for upload service provisioning. Once the service provisioning data is downloaded to ATU-R, a message will indicate user that the service is ready and user data sessions may begin).

Regarding claim 52, Wang discloses the method as recited in Claim 48, wherein said service provider provides said automation agent to a computer manufacturer for preloading on said subscriber computer (col. 5, lines 38 - 48).

Regarding claim 53, Wang discloses the method as recited in Claim 48, wherein said automation agent is adapted to configure said subscriber computer for a baseline

network access method to conduct said control dialog (col. 5, line 38 through col. 6, line 65).

Regarding claim 54, Wang discloses the method as recited in Claim 48, wherein receiving said order includes said service provider advertising, via said automation agent, said broadband service to said subscriber (col. 5, line 38 through col. 6, line 65).

Regarding claim 55, Wang discloses the method as recited in Claim 48, wherein said control dialog includes said automation server receiving a status from said automation agent resulting from executing said workflow, and said automation server updates a subscriber profile database with said status (col. 8, line 3 through col. 9, line 55).

Regarding claim 56, Wang discloses the method of claim 48, wherein said broadband network is a DSL network (col. 6, line 4 - 12).

Regarding claim 57, Wang discloses the method of claim 56, wherein said workflow includes using a narrowband modem to contact a DSL line qualification server to test a physical line outside the scope of said broadband network, and wherein said service availability information includes DSL subscriber loop characteristics associated with said physical line (col. 20, line 20 through col. 20, line).

Regarding claim 58, Wang discloses the method of claim 48, wherein said broadband network is a cable network (col. 6, lines 4 - 45).

Regarding claim 59, Wang discloses the method of claim 58, wherein said workflow includes detecting a carrier signal from said cable network and attempting to communicate with said automation server via said cable network, and said service

availability information includes a signal strength of said carrier signal or an error code resulting from said attempt (see col. 21, line 21 through col. 22, line 19; Wang discloses that a message is sent by the ADSL modem in the CPE 110 to client PC after a service attempt. If call attempt is failed, the call status will return an error code, see table 2, with both VPINCI and connection ID be Os).

Regarding claim 60, Wang discloses the method of claim 48, wherein said broadband network is an ISDN network (the network includes a fiber optic network; col. 6, lines 4 - 12).

Regarding claim 61, Wang discloses the method of claim 48, wherein said broadband network is a wireless network (col. 6, lines 4 - 6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 49 and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang and Cantos in view of Leichleider et al (US 6,091,713; hereinafter Leichleider).

Regarding claim 49, Wang and Cantos disclose all the limitations in claim 48, but fails to specifically disclose the step of upgrading said broadband network to add a

geographic region that includes said subscriber, thereby newly enabling said subscriber for broadband network access.

However, Lechleider discloses the steps of upgrading said broadband network to add a geographic region that includes said subscriber, thereby newly enabling said subscriber for broadband network access.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Wang and Cantos by upgrading said broadband network to add a geographic region that includes said subscriber, thereby newly enabling said subscriber for broadband network access as evidenced by Lechleider for the purpose of determining the viability of deploying ADSL in entire areas by creating lists of subscribers whose subscriber loop can support ADSL, thereby allowing for efficient and ubiquitous deployment of broadband services over the existing subscriber loop plant.

Regarding claim 50, Wang discloses the method as recited in Claim 49, wherein establishing said control dialog further includes said automation server accessing a broadband deployment database updated after said upgrading (col. 9, line 36 through col. 10, line 7).

Claims 62 – 85 incorporate substantively all the limitations of claims 48 – 61. The reasons for rejecting claims 48 – 61 apply to claims 62 – 85. Therefore, claims 62 – 85 are rejecting for the same reasons.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Crow et al (us 6,871,345) discloses a broadband service control network.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YVES DALENCOURT whose telephone number is (571)272-3998. The examiner can normally be reached on M-F 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/YVES DALENCOURT/

Primary Examiner, Art Unit 2457